Civil Writ Petition No.522/2004
Amar Singh Rathore Versus
State of Rajsthan & Others

Date of Order ::: 10/11/05

Hon'ble Mr. Justice Ajay Rastogi

Mr. V.D.Sharma for Mr.Ashok Gaur, for petitioner
Mr. H.V.Nandwana Dy.Govt.Adv. , for respondents.

This is second round of litigation when petitioner has to approach this Court for release of his terminal benefits which he was otherwise legally entitled for under Rajasthan Civil Services (Pension) Rules, 1996 ("Pension Rules").

Petitioner holding the post of Junior Engineer in Irrigation department of respondent State, on attaining age of superannuation retired on 31/08/2002 but at that point of time, he was facing disciplinary inquiry initiated after serving charge sheet dt.10/03/87 U/r 16 of Rajasthan Civil Services (Classification Control & Appeal) Rules, 1958 ("CCA Rules") and since charges imputed against him was belated one, he challenged validity of charge sheet, itself, by filing Civil Writ Petition No.802/01, wherein this Court vide its judgment dt.29/07/02 (Ann.1) set aside very charge sheet (supra) served upon him, and that apart, State Government also passed separate order (Ann.3) in deference to judgment of this Court, and thereby indisputably, no inquiry other than one (supra) was ever initiated or pending against him, therefore, after charge sheet (supra) having been set aside by this Court, respondents were under legal

obligation to release retiral benefits to him. When the authority failed to discharge their legal obligation, petitioner served legal notice of demand for justice and when it was not responded, approached this Court by instant petition.

Counsel for petitioner contends that without any reason muchless justification, terminal benefits of petitioner were withheld and such an inaction on the part of respondents is violative of Art.14 & 21 of the Constitution of India so also Pension rules.

Respondents have filed reply to writ petition and have not disputed about factual statement referred to by petitioner but only submitted that few of his terminal benefits have been released, and for rest, matter has been referred to appropriate authority. But despite question put by the Court as to what is the reason or justification for which his terminal dues were not released, no satisfactory justification has come forward. It is sorry state of thing for a Mighty State that for just cause of retiral benefits, person has to approach this Court while the respondent State is expected to carry out its legal obligations, in discharge of duties of welfare State in terms of scheme of pension rules.

The petitioner has also pointed out in additional plea filed in rejoinder with regard to benefits which are still due and outstanding. No counter to the same is put forward by either side. It was expected from concerned authority to examine the terminal benefits due and outstanding to the

petitioner.

Employee's right to pension is a statutory right and not a bounty and can only be denied to retired personnel by invoking statutory rules, if any, permit.

Contrarily, under present scheme of Pension rules, only at the stage of pendency of inquiry, certain dues of retired personnel can be withheld but in instant case, once charge sheet, itself, was quashed and no further disciplinary inquiry stands pending, there was no justification available for the respondent State to withhold his terminal benefits.

Accordingly, this writ petition is allowed and respondents are directed to release all terminal benefits of petitioner which are yet due and outstanding as per pension rules within a period of two months from today, alongwith interest @ 12% per annum on the amount outstanding from the date of its accrual till actual payment.

Looking to the fact that without any justified cause, terminal benefits are withheld and for which petitioner has been compelled to approach this Court, I consider it proper to further saddled the State with costs which is quantified at Rs.5,000/- recoverable from defaulting official of respondent responsible for withholding petitioner's terminal benefits.

(Ajay Rastogi), J.

K.Khatri/522CWP2004.